IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 1904 Of 2004

Danjibhai N. Babaria .. Plaintiff

versus

Shashikant T. Salve & Anr. .. Defendants

...

Mr.Ramesh Jain for the plaintiff.

None for the defendants

CORAM : D.G. KARNIK,J.

DATED : 21st February 2005.

P.C.:

1. Heard the learned counsel for the plaintiff. None present for the defendant.

2. The plaintiff has filed on record affidavit of service dated 13th September 2004. Despite service, the defendants have not entered an appearance. In the circumstances, the plaintiff is entitled to a decree under sub rule (3) of Rule 2 of Order 37 of

the Code of Civil Procedure.

3. The plaintiff has filed on record the original hundi dated 6th October 2002 drawn by defendant no.1 and accepted by defendant no.2. The plaintiff has also filed on record the office copy of the notice along with the courier receipt. Perusal of the plaint and the documents show that for a valuable consideration the defendant no.1 drew a bill of exchange of Rs.60,000/- which was accepted by the defendant no.2. Both the defendants failed and neglected to make the payment on the due date inspite of the demand by notice. Hence, plaintiff is entitled to a decree for the principal sum and as interest u/s.80 of the Negotiable Instruments Act. Hence, suit of the plaintiff is decreed as follows:-

4. The defendants shall pay to the plaintiff a sum of Rs.75,208.76 together with interest on the principal sum of Rs.60,000/- at 9% p.a. from the date of the suit till payment and all costs of the suit.

5. Issue Court fee refund certificate as per rules.

D.G. KARNIK, J